

Notice of Allowability

Application No.

10/674,201

Examiner

Sandra M. Nolan

Applicant(s)

KNOERZER ET AL.

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response dated 24 May 2004.
2. ☒ The allowed claim(s) is/are 1-9.
3. ☒ The drawings filed on 29 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

S.M. Nolan

**SANDRA M. NOLAN
PRIMARY EXAMINER**

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:
2. Claims 1-9 are allowed.
3. The base claims are claims 1, 5 and 9. They can be summarized as follows:

Claim 1 covers a food package comprising:

- a first thin film forming the side wall of the package, which first film comprises a sealant layer in contact with the food and comprising polypropylene and another polymer along with not more than 2.5% of polyethylene or no more than 1% polybutene;
- a second thin to which the first film is laminated;
- a third thin film laminated to the second thin film.

Claim 5 covers a food package comprising:

- a first thin film forming the side wall of the package, which first film comprises a sealant layer in contact with the food and comprising 93% or more of polypropylene and another polymer, with the other polymer being either polyethylene or polybutene;
- a second thin to which the first film is laminated;
- a third thin film laminated to the second thin film.

Claim 9 covers a food package comprising:

- a sealant layer in contact with the food, said sealant layer consisting essentially of polypropylene and an added polymer to depress its melting point, wherein the added polymer is one of:

- (i) polybutene,
- (ii) polyethylene,

Art Unit: 1772

(iii) about 5% polyethylene and less than 1% polybutene, by layer weight, or

(iv) about 2% polybutene and less than 2.5% polyethylene, by layer weight.

4. The prior art of record fails to teach or suggest packages having all of the features of claims 1, 5 or 9.

5. The examiner found the arguments presented on pages 6-11 of the 24 May 2004 response regarding the patentability of the claims to be convincing.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication should be directed to Sandra M. Nolan, whose telephone number is 571/272-1495. She can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the examiner are unsuccessful, her supervisor, Harold Pyon, can be reached at 571/272-1498.

The fax number for patent application documents is 703/872-9306.



S. M. Nolan
Primary Examiner
Technology Center 1700

SMN/smn
10674201(20040803)

**SANDRA M. NOLAN
PRIMARY EXAMINER**